back from Rs. I.

G.R.S 57.1

Later References
L.R. 279-12 Index.

File No. 6 — 11

Serial Nos. 1 9

1901-12

L.R. 126-25-(3-7)

GENERAL AND REVENUE SECRETARIAT.

(Lejs)

Part A. Manuscript
for July 1912

Subject: Amendment of the Mysore Land Revenue Code, 1888.

Serial Nos.

No. R 8016 of 9/6/1908, to the Resr commrs
invites his opinion on the matter of affording
greater facilities to Inamdars in recovering their
dues from their tenants
No. R. 8453 of 28/1/1909 to the
forwards representation vide
subject 101 of 08 for opinion in
continuation of 81.
No. 9699 of 24/3/11 from the
Submits his opinion & on th

3

GPB—5,000—20-8-06.

P.T.O.

C. 254
23. 3. 1911.

G.R.S. 11] 1911-12

125/Vol. I

GENERAL AND REVENUE SECRETARIAT
(Legislation)

NOTES.

Legn 6 of 1911-12
L.R. File. No. ~~573-07~~

FILE HEADING.

Amendment of the Land Revenue Code.

No.	Dated	Received
Diary No.	Enclos.	Spare Copies. / Serial No.

BRIEF ABSTRACT OF LETTER.

NOTES AND ORDERS.

NOTES—First sheet.

GPB—30,000—20-3-06

105 73-07

SUBJECT NO. 85.

1. Sale of land for arrears of revenue.
2. Provision similar to Section 310 A, Civil Procedure Code, may be made applicable to Revenue sales.

Mr. A. Narasimmaiengar, Sagar Taluk.

Summary of discussion.—Whenever the sal for arrears of revenue is concluded, even though th dar produces the purchase money together with interest 5 per cent, the sale is not generally cancelled and the khatedar is usually deprived of his land. It is prayed therefore that the section in the Land Revenue Code may be amended so as to be in conformity with Section 310 A of the Civil Procedure Code. The absence of this saving provision deprives many an honest but poor land-holder of his lands owing to causes beyond his control. This provision also fulfils the object of revenue sales.

Reply of Government.—Noted for action in connection with the revision of the Land Revenue Code.

Subject

This question was mooted in 1906 also. It may be dealt with in the Legislature Section of Br. III

Hag

8 S.S.
4.10.08

4/11/08

2/8

Yes 31/8

9

SUBJECT No. 94.

Recovery of arrears in inam villages.

(1) Mr. T. S. Krishna Rao, Mysore District Board.
Messrs. Kodandapani Chetty and Madappa, Mysore Taluk.
(2) Mr. Raghavachar, Nanjangud Taluk.
(3) Messrs. Karigiriyappa and Ramappa, Dodballapur Taluk.

Summary of discussion.—(1) The powers vested in Government under the Land Revenue Code have been delegated to inamdars; but they are allowed to collect arrears of revenue or gutta of only the previous six years. It is prayed that the arrears of any number of years may be allowed to be recovered by the inamdars and the land or lands to which the arrears relate made liable for such arrears just as land revenue is a paramount charge on a holding.

(2) According to the Land Revenue Code, the land revenue on Government occupied land is a paramount charge on the holding. But its application to raiyats' holdings in inam villages is not quite clear. It is requested that the Code may be so amended as to make it applicable to holdings in inam villages also in respect of arrears of kandayam due to an inamdar. When this question was urged last year, Government were pleased to admit that such help to the inamdar was necessary; but as yet no orders have been issued. The matter may be expedited.

(3) The power to forfeit and sell lands for arrears of kandayam without reference to previous encumbrances vested in Government regarding kandayam paying land, may be extended to superior holders with reference to arrears due to them from inferior holders.

Reply of Government.—The question of amending the law so as to constitute the rent a charge on the land and providing greater facilities for its recovery under the Land Revenue Code will be considered and, if necessary, a bill will be introduced in the Legislative Council. Rent due to an inamdar cannot be constituted a paramount charge on the land, so as to be unaffected by previous encumbrances.

Submitted

In Govt order No. R. 3453-61 / L.Q. 217-06-2 dated the 3rd Dec. 1907 Govt have promised to separately consider the question of affording facilities for the recovery of arrears of rent due to Inamdars from their ryots which as the law now stands are considered not as a charge on the land but as personal debts due to the Inamdar from his tenants. Please see also Subject

*Hag G

G. R. S. 12]
General and Revenue Secretariat.

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Serial No.

No. 23 of the C.A. Progs of 1906 & the reply of Govt thereto. This may be dealt with in the Legislative Section of Branch III. May this be transferred to that Br

8.8.08 4.1.08

4/8 6/1/08 P. de D'Souza.

To Branch III

4/8 7.1.08

2/ The following are the prayers made by the Representatives in their annual representations made year after year: -

1). The land revenue due to a superior holder from an inferior holder of an alienated land might be considered as a paramount charge on the land so as to have all the incidents attached to it under Sec 52 of the L.R. Code.

3. This has been declared by the Govt to be impossible

2). The arrears of rent or Land Revenue due to superior holder might be regarded as a charge on the Land so that ~~they~~ case ~~would~~ be might be brought for limitation purposes under Art 131 and able to collect arrears for the last 12 years

and (3) that they might be entitled to collect arrears for any number of years.

The Govt have promised to consider the

NOTE—Contn sheet.

GPB—50 000—17-3-07

Serial No.

these and to amend the Revenue Laws if necessary Suitably.

4. Effect may be given to the above perhaps by the omission of the first proviso to section 57 and the addition of the sentence "The rent or land revenue due to a superior holder from an inferior holder shall be considered as a charge on the land" thereto. This will perhaps also render necessary the omission of sec 103 which limits the period at which the payment of rent may be claimed by a superior holder, and the consequent addition of a clause to sec 55, to enable the superior holder holding a Commission to enforce payment of the rent or land revenue due from inferior holder.

5. In this connection the introduction of a section in terms of sec 310 A of the Civil Procedure Code, Rep Act. Proc Nos. 57 of 06 and 85 of 07. has to be considered also. Perhaps this may await the passing of the Civil Pro cde amendment bill regarding the amendment of sec 310 A as it stands at present into law.

Submitted for further orders

T. K. S

P. J. O.

NOTE.—Contn sheet.

GPB—50,00017—3-07

G R. S. 12]
General and Revenue Secretariat.

L. R File No. 573 of 1907

Serial No.

6. May not the attention of the Revr Comr be invited to the G.O. ~~regarding~~ on these subjects and he be requested to suggest the necessary amendments to the Land Revenue Code.

This would imply that such amendments are desirable & a point at present in doubt. H

Secy) 18.5.08 Mr. Taylor Bov

7. Rather he may be asked to favour Govt with his opinion on the ~~subject~~ points referred for consideration in the 4th para of Govt and the ~~suggestions~~ of Memo ~~of~~ amending the L.R. Code (and perhaps also the Limitation Act) in connection therewith, & the scope of such amendments

L.R

This may be done in branch D (H) 2-6-08
Do Dor I principal H.S. Chandrasekharayya
88
4/6.

Draft Dirs.

Govt. 8/6. 4/6/08 Govt. & P.A. D'Souza 4/6/08
BK 4/6/08

8. 1 9 To Rev. Comr. 2 or R. 8016 & 9.6.1908

Invites his opinion in the matter of ~~allowing~~ affording greater facilities to Inamdars in the matter of recovering their dues from their tenants

NOTE- Contn sheet.

GPB-50,00017-3-07

SUBJECT NO. 108. 408

Collection of revenue in inam villages.

Messrs. V. Raghavachar, Nanjangud Taluk, Amble Anniah Pandit, Yedatore Taluk and Madappa, Mysore Taluk.

Mr. Venkataramiah.

Summary of discussion.—For the recovery of the arrears of kandayam due to inamdars from their raiyats, the civil courts used to pass decrees against th lands. Further the time allowed for the recovery of such amount used to extend to 12 years. The above ruling has been very recently annulled by the Chief Court of Mysore. The Revenue Code may therefore be revised so as to give relief to inamdars in this respect.

The period of limitation for the recovery of the arrears may be extended to six years and the kandayam due by raiyats to inamdars may be made a charge on the land.

Reply of Government.—The question whether it is necessary to amend the law has been referred to the Revenue Commissioner for opinion and the matter is under the consideration of Government.

S/ The Revenue Commissioner may be awarded — Remarks
8/11/09 are reserved. This may be
16/11/09 placed with the file
Meeting on
Draft sealed
Sd A P D Souza
S/11/09
17/11/09
T. Narasimhaiya

P.T.O.

d f 473-04

SUBJECT No. 101 of 08.

Extension of the period for the recovery of arrears of kandayam due from raiyats to jodidars and holders of inam villages from one to three years.

Mr. Bhimasena Rao, Chitaldrug Municipality.

Summary of discussion:—Under the rules in force Deputy Amildars and Amildars are empowered to recover, on application, one year's kandayam due to the holders of jodi or inam villages from their raiyats. The arrears of more than one year relating to Government villages are recovered by coercive measures. The same concession may be extended to jodi and inam villages and Amildars and Deputy Amildars empowered to recover the arrears of such villages falling due for three years instead of for one year.

Reply of Government.—The opinion of the Revenue Commissioner has been invited on the point and the question is under consideration.

This question may conveniently be dealt with the question of re-amending the Land Rev Code requiring the rents payable to the Zamindars by their tenants.

Draft put up for approval

G.N. V.N
19/1/09
BK

Sent to the Revenue Comr. vide R 5453 dt 28.1.1909

Forward the above representation for opinion in continuation of S.L.Z.1

L R 573-07 9

SUBJECT No. 15.

Amendment of the Land Revenue Code.

Messrs. H. P. Ramaswamy Iyengar, Chikmagalur Municipality, B. Subbanna, Law Association, Bangalore, and S. Sitaramaiya, Shimoga Municipality.

Summary of discussion.—The Revenue Code may be amended so as to allow of sales for revenue arrears being cancelled when the land-holders pay the arrears of kandayam within a month or any reasonable time after the sale, reasonable interest or damages being paid to the auction-purchaser as is done by Civil Courts in similar cases under Section 310 A, Civil Procedure Code.

Reply of Government.—Noted.

10

Subd. The necessity for the amendment has first to be decided in the Agriculture Branch concerned, by Branch I, which will transfer the file to the Branch if it considers an amendment of the Land Rev Code on the lines suggested by the Member necessary. Submitted

T.K.S 22/1/09 SW 22/1/09

S. Hiriyannayya

22.1.09.

Transp to Br I
Subd

11. The question of amending the Land Revenue Code on the lines of Section 310 A of the Civil Pro: Code has already been raised & is under Consideration. The opinion of the Rev: Commr has been called for and is awaited

23/1/09

Please send this in cover

P.A. D'Souza
23/1/09.

23/1/09

12/ ~~Submitted~~ The attention of the Rev: Comr is invited to the previous correspondence calling for his opinion on this subject in this Office docket No. R 5453 & 28.1.09 may this therefore be kept in the file!

flag R.

Y.N 4/2/09

Subd

P.A. D'Souza

G. R. S. 12-]
General and Revenue Secretariat.

d 6 File No. 373 of 1907

Serial No	
final 3 5	From the Revenue Comr in Mysore No 9699 d the 24th March 1910 Submits his opinion on the R. A. Subjects referred to him in Sl Nos 3 and 4

NOTE—Contn. sheet.

GPB—55,000—27-4-09

Serial No.

urging upon Govt., in the Representative assembly the necessity to have their position improved. They prayed, in the year 1907, that the rent due to them might be constituted a paramount charge on their ryots' holdings; but the Govt., at the outset, told them that it could not be done as it would

R.A. Sub 96 of 1907

affect the previous encumbrances. It was, however, added "That the question of amending the law so as to constitute the rent a charge and providing greater facilities for its recovery under the Land Revenue Code will be considered and, if necessary, a bill will be introduced in the Legislative Council."

15 The Inamdars now request (a) that the time for the recovery of their rent may

Sub R.P. 108 of 08
101 of 08.

be extended to 12 years; (b) that it may be made a charge on the land; (c) that the concession allowed to them under Sec 97 of the Land Rev. Code for the recovery of rent [redacted] by means of coercive measures may be extended so as to cover the arrears of three years instead of those of one year as at present.

16 The Revenue Comr. is of opinion

BPG—55,000—27-4-09

Serial No.

as regards (a), that it is unnecessary to extend the limitation period from 6 to 12 years

as regards (b), that the rent may be made a first charge on the holding;

as regards (c), that the section 97 may be made applicable for the recovery of two years' arrears instead of those of three years as prayed for by the Deputy members.

17. For this purpose he recommends that the Land Revenue Code may be amended by adding the following Sub section to Section 54:-

"For purposes of Sec 97 and 99, arrears of rent by way of Land Revenue due to a superior holder by inferior holders or by co-sharers in their holdings on account of land held by them shall be a first-charge on the holding and every part thereof. But nothing herein contained shall affect any right of the Govt; nor shall it affect the period of limitation allowed for Civil Suits for recovery of such amounts"

18. As regards (c) he proposes to insert "two years" for "one year" in Section 97, proviso (1).

19. In this connection the Revenue Comm:

NOTE—Contn. sheet.

GPB—50.000—18-5-08

Serial No.

21. As long as the rent payable by an inferior holder to the Superior holder is considered not a paramount charge on the land held by ~~the holder of the Superior~~ former, the latter will not have the same privilege as Govt have, of proceeding against the land in preference to other prior claims, if any, subsisting on it, under Section 143 of the L.Q. code, this is clearly indicated in Sec: 97.

22. The proposal of the Rev: Commr: amounts to such rent being treated as a first charge on the land only to a limited extent - When the arrears relate to a period exceeding the prescribed limit, it will lose its character of being the first charge on the land & the Superior holder will have to take steps to recover the amount by a suit viz. a civil court under the Civil Pro. Code -

23. The Rev: Commr: is not sure whether the land held by an inferior holder cannot be declared forfeited for the rent due thereon to the Superior - As long as the rent is not a paramount charge on the land, the Superior holder has no lien upon it, & consequently the

NOTE—Contn. sheet.

GPB—50.000—13-5-08

Serial No.

cases might be dealt with by Local Officers under Section 237 of the L. R. Code - The Rev. Commr. proposes that the power to levy full assessment on a Survey No., or proportionate assessment on of an assessed Survey number, which might be occupied without permission may be given to Superior holders., when they can be invested with higher powers of a Dy. Commr. under Sections 63 & 64 (levy of penalty for appropriation of agricultural land for non-agricultural purposes, with and without permission).

(X) Section 99

[In this connection, it may be noted that at the time of the framing of the Land Rev. Code, it was considered that the elaborate provisions which prevail in Zamindari Provinces had no application in a purely Ryotwari Province like Mysore, and Sections 86 to 98 are stated to have been framed after prolonged discussion and very careful consideration and based on the usage then existing] -

(Vide page 175 of the Selections re Rating to the Land Rev. Code)

S. S.

14/5/10.

NOTE—Contn. sheet.

GPB—55,000—27.4.09

Serial No.

26 It may be conceded that under the provisions of the Land Rev Code as authoritatively interpreted at present tenants are placed under a greater disability as regards the recovery of rent due from them to landlords than what is justifiable according to the nature of the grant which is required in the interests of the tenants themselves. Cultivating ryots in many villages, and more especially those Kudivaram tenants who consist of occupancy or unalienated land in Government villages, and whose rent cannot be varied except under the provisions of the Land Rev Code and tenants at will or under specific leases. With regard to the latter no special concessions are required as the interests of both are sufficiently protected by the terms of their special contracts and many provisions of law. The Rev Code requires certain special

NOTE—Contn. sheet.

GPB—55,000—27-4-09

Serial No.

privileges in the case of Kadim tenants and as it is the object of these provisions to confer upon them the same rights and privileges as far as possible as are possessed by holders of land in unbroken old villages with the same guarantee as regards fixity of demand and stability of tenure given to them it is necessary that the advantages should not be all on the side of tenants & Inamdars under whom these lands are held but also Inamdars have some compensating benefit advantage. If the Inamdar does not pay the jodi the land is subject to be sold but in order to recover rent from the tenants he has either to file a suit in a Civil Court & proceed under S. 57 of the L.R. Code when he can obtain assistance from the Dy Collector to recover the rent but without any guarantee that his claim will not be defeated by any encumbrance already created by the tenant. It would therefore be consistent with the rules applied in the

NOTE—Contn. sheet.

GPB—55,000—27.4.09

Serial No.

Revenue Code towards Kadam
towards to allow special facilities
to the Inamdars to recover
the rent due from the former
The rent stands in the same
position as land revenue had
ordinarily by occupants
unalienated land and is
therefore entitled to the same
priority over other debts and
demands excepting claims for
as land revenue. The is
that the Inamdars now seek
to obtain and it is necessary
to amend the Land Rev Code
so as to declare such rent
a first charge on the land.

27. S. 97 after to all
superior holders whether in
alienated & unalienated villages
provided in the latter case
survey and settlement has
been duly introduced and
then and it is necessary
to give to all such
superior holders the extraordinary
preference which it is now

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Serial No.

proposed in Rent & Drainage regarding the rent due from the Kadim tenants & all of them and inter alia the rent recoverable under S-99 of the Land Rev Code with the same priority as may be legitimately demanded in the case of rent payable by way of land revenue.

28. The amendments proposed by the Rev Commr give this district and Co much further than is necessary. Properly speaking there are two questions to be decided. Viz are (1) what classes of rent should be treated as a first charge on the holding and (2) in what manner may the facilities afforded by S-99 in the matter of the recovery of rent by summary process be extended without going beyond the nature of the summary enquiry to be held for the purpose.

NOTE—Contn. sheet.

GPB—55,000—27-4-09

Serial No.

These two sections are distinct and should be considered separately. At present it is only the current year's rent or revenue that is recoverable under s. 57 and as proposed by the Rev. Commr the period may be extended so as to include the arrears of the year immediately preceding. This may be effected as proposed by the substitution of the words "within two years from the end of the revenue year or the year of tenancy" for "within the revenue year" in the section. It may be pointed out that this will enable superior holders to recover rent under this section for more than one year more than is really intended by the Rev. Commr. If only two years' rent or land revenue it is considered sufficient to allow not more than two years rent or land revenue to be recovered under this section the amendment may be

NOTE—Contn. sheet.

GPB—55,000—27-4-09

Serial No.

ended as follows:—

"Provided that such application relates to the current year's rent or land revenue or to that year immediately preceding and is made within one year after the end of the revenue year or the year of the tenancy in which the said rent or land revenue became payable"

29. As already observed the Rev Comm's amendment regarding rent being constituted as a first charge on the holding for which it is due seems to go much further than is necessary and is due to the fact that the Rev Comm apparently regard S. 67 as applicable to Inamdars and not to other superior holders. Please see Bk 14 on p. 115 of Settes' Land Rev Code. It is doubtful whether S. 54 would be an appropriate place for the amendment proposed by the Rev Comm in this behalf. It is merely proposed to give to such Inamdars as far as possible the same priority that S. 54

2

NOTE—Contn. sheet.

GPB—55,000—27-4-09

Serial No.

confers on land revenue due to the Govt and there is therefore no necessity to amend the two Sections. The last para of s. 84 is as follows:—

"A Kadim tenant shall have all rights which are conferred by this Regulation upon an occupant of unalienated land. It shall however that this right is subject to a similar liability to that which has been imposed upon occupants of unalienated land under a sec as regards land revenue being a paramount charge on the land and the para may be added after it as follows

"The rent payable by a Kadim tenant shall be a first charge on the holding and every part thereof and shall not be affected by any encumbrances or rights created by him or his predecessors in title without the consent of

NOTE—Contn. sheet.

GPB—55,000—27-4-09

Serial No.

the suspension of the above
land. But nothing herein
contained shall be deemed
to affect any right of the
Government nor shall it affect
the period of limitation applicable
for the recovery of such amounts
It may perhaps be preferable
to make this a new section (S 85A)

3. Many of the other
points raised by the Rev Commr
do not call for any consideration with
~~seem to be of academic~~
the present subject ~~interest~~ The conditions prevailing
in the Madras Presidency & especially
in Jahagirs are widely different
and the provisions of the
Madras Estates Land Act and
similar enactments will not
help us much As regards the
grant of the power to deal with
cases of unauthorised occupation
of land under S. 59 A (6) it will
be noted that the Rev. Commr.
is not in favour of granting the
power to Govt under the
section. Under S. 237 of

NOTE—Contn. sheet.

GPB—50,000—18-5-08

Serial No.

the Land Rev Code when a survey settlement has been introduced into an inam village the holders of land in it are subject to the same liabilities as occupants of unalienated villages and all the provisions of the Code relating to them latter are applicable as far as possible to the former also and there seems to be no objection to move the Dy Commr to enforce the penalties under s 59. The only question is whether the Inamdar will be entitled to the penalty that has been levied but it seems to be fairly entitled to it. Conversion of agricultural land to non agricultural purposes is not to same as unauthorized occupation of land and the power to sanction ~~of~~ such conversion may be delegated to Asst Commrs in charge of the persons likely to be most affected by such conversion. It seems

* will probably be consulted by the Dy Commr before permission is given even when the application is made to the Dy Commr

NOTE—Contn. sheet.

GPB—50,000—18-5-08

Serial No.

be unnecessary anymore to provide for delegating the powers under s-55 as no serious inconvenience will be caused to the Inamdar by requiring him to take the necessary steps through the Dy Commr if the village has been properly settled Where the village has not been surveyed and settled the Inamdar should obtain orders in a civil court

32 We have also for recovery of arrears of rent the sale is conducted by the Revenue Officers and there is no prohibition under the L.R Code about the Inamdars purchasing it if there are no bidders

33 - As for the other section that has been raised whether land can be forfeited for non-payment of rent there is no doubt that a strict interpretation of the provisions of the L.R Code would favour such a course but as even in the case of Inam lands it is very seldom that

NOTE—Contn. sheet.

GPB—55,000—27-4-09

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even land that are forfeited are disposed of without sale, there seems to be no objection to continue the present practice of selling them and where the rent is a paramount charge the sale will not be confined to the then subsisting right title and interest merely.

2. In the meantime, if the Revenue Commissioner the introduction of a provision similar to that of s. 310 A may be favourably considered.

20 Bz III

P. C. D'Souza
18/57.

Submitted for orders.

3. The file has been forwarded to this Branch (Leg) Secretariat for framing a draft bill in the matter and placing the same before the Legislative Council but it is submitted that it is not possible to do so at present in the shape in which the file has been sent.

4. With both the Revenue and the Revenue Branch agree in considering that superior holders in Niam villages stand in need of some relief in the matter

NOTE—Contn. sheet.

GPB—55,000—27.4.09

Serial No

of the recovery of rent due to them from their inferior holders, they differ as to the scope and nature of the amendment. While the Rev. Commr would have the amendment regarding the rent being made a first charge on the land as a subsection to Sec 54 the Rev Branch would for reasons given (para 25 of the note) have it as a third head of Sec 54 and would it differently. Again they also differ as to the amendment to be made in regard to the period for which power is to be given to the mandars for the recovery of rent by coercive process. The Rev Branch seems to think that the amendment proposed by the Rev Commr in this respect would enable the mandar to recover arrears for a year more than is really intended by the Rev Commr (para 28 & page 21 & 22 of the note). A different amendment has accordingly been suggested

37 It is submitted that these points have first to be decided before the file can be dealt with in this Branch.

38 The power proposed to be given by the Rev Commr to an mandar by a Commission under Sec 57 of keeping full assessment on a survey

NOTE—Contn. sheet.

GPB—55,000—27-4-09

Serial No.

Number in an inam village which might be occupied without permission is not favourably looked upon by the Revd Branch. ~~Legislation~~. As regards the insertion of a section for setting aside a sale on deposit of arrears of revenue the provision made by sec 3 of the Madras Revenue Recovery Amendment Act may perhaps be inserted.

L&L for orders.

No 11/5/10. SH 26-5-10 T.K.S

39. (Mr D'Souza writes to say that the file has been sent to Br III for further action being taken.)

40 Subd to Secretary.

The draft amendments will be put up after the policy underlying the questions has been settled by Govt.

Mr D'Souza has noted for his study on the merits of the questions involved.

9/6/10 S. Hariyannayya

41 I generally concur in the views stated by Mr D'Souza

NOTE—Contn. sheet.

GPB—55,000—27-4-09

G. R. S. 12]
General and Revenue Secretariat.

LR File No. 573 of 1907

Serial No.

So far as treating the rent as a charge on the land is concerned, it would be desirable to treat the rent due from a Kadem tenant as a first charge on the land.

If any similar provision regarding other tenant is desirable we may say that such portion of the rent payable to the Diwan as does not exceed the survey assessment in Inam villages where survey settlement have been introduced shall be a first charge on the land.

Dewan through 2nd C.

Cbz.
21/9/10

SA

42.

501. Under the Madras Land 21/9/10.
If rent with its interest is a first charge on the lands, does not art. 132 of the Ltn Act (12 of 1908) apply to it? Please see the authorities & send them marked to me.

H. V. Narayanaswami
23/9/10. C. S. B.

Leg.

SA
26/9/10 S. Krishnamurthi

NOTE—Contn. sheet.

GPB—55,000—27-4-09

G. R. S. 12]
(neral and Revenue Secretariat.

HR File No 573 of 1907

Serial No. 43

Ld. It seems that A 132 would, so far as money actually charged on an immoveable property is concerned, apply only to claims where the money is sought to be raised out of the property itself eg. by sale thereof and would not apply where personal remedy is asked for. / All. 502. 12 / A 12. (P.C.)

Ho. Dy. Sec. / Ho. Dy. Sec. / 6.2.09 T.K.S

44. Please put up a copy of the Madras Rent Recovery Act and note whether any special rules of limitation is laid down therein in respect of cases when rent is made a first charge on the land.

Dy. Sec. 30/9/10. S. Hiriyannaiyya

Ld. 45.

It is the Madras Estates Land Act that is referred to by the Rev. Comm. and not the Rent Recovery Act which does not also contain any express period of limitation. It will be seen from para 6 of the Rev. Commissioner's letter that a special period of 3 years limitation is fixed in such cases. Here a period of 6 years is proposed. A Copy of

Letter to Govt. of India Proposal

NOTE—Contn. sheet.

GPB—55,000—27-4-09

Serial No.

Mr. Estate Land Act is not readily available
Kindly for further orders

28/10/10 T K S

S. Hiriyanna
28/10/10

2nd 46.
Please get the Madras Estates Act wherever available. Also put up the Bengal Tenancy, Punjab Tenancy & similar other acts available in the library.

H.V.N.
Early.
8/11/10.
up P.S.B
Early

Hiriyanna
8/11/10.

47.
The Ist St. Jorge Gazette one containing the Madras Estate Land Act is put up with Punjab and United Provinces Acts Containing the Punjab &

G. R. S. 12]
General and Revenue Secretariat.

LR File No. 573 of 1907

Serial No.	
	Agra Tenancy Act. The Bengal Tenancy Act has been published in Vol. 2 of 1st Edn of the Bengal Code ~~copy of the~~ Vol. ~~not~~ available in ~~the~~ Legislative Library ~~Board~~ It is understood a complete set of the Bengal Code is kept in the Council Chamber under the custody of the Cash section ~~Mr~~ 9/11/10 T.K.S ~~S.H~~ Retain it as it is required by the 2nd Order 21 and be returned when done with, 11/11/10. S.H Viraraghavayya
	V48 9/11 The Bengal Code has been placed in this rack ~~Mr~~ 12/11/10 T.K.S T.K.S 12-11-10 S.H Viraraghavayya 11/11/10
	2nd 49
1032	Instead of adding a sub-section to S4 or 84, a new section may be inserted as S.96A under the ~~S~~ Sub-heading of Recovery of Superior

NOTE—Contn. sheet.

GPP—55,000—27-4-09

Serial No.

Holders dues'. We do not
mean to give the mortgagees
&c a right of paramount
charge and thus in my
judgt in the Ch. Court, I held
they had such a charge under
the Rev Code. I do not think
it either just or necessary
that they should be invested
with such a right when we
are deliberately making a
new legislative provn. As
the right of first charge is
something quite different,
we need not associate
the new provn with S. 574.
50. I do not think it neces-
sary to limit the right to cases
falling under ss 97-98 of the
Code which are concerned with
cases in which the ~~right~~ assistance of the Rev. Offrs is
sought It may be made a
general provision referring to
all cases, so that it may apply

NOTE—Contn. sheet.

GPR—55,000—27.4.09

Serial No.

even in cases of suits filed in the Civil Courts. I am doubtful if that the phrase first charge as appears in it will not have the same meaning as a paramount charge and give priority over previous encumbrances created by the tenant. I would therefore use the term charge alone. The Madras Estates Land Act (1908) makes it a first charge, and somewhat qualifies the effect this would have on sale for arrears, by an enactment in S. 125 that the purchaser shall take subject to any right or interest which the ryot has created therein with the landholder's permission in writing registered & subject also to any encumbrances created before the passing of this Act." That the superior holder has some sort of lien on the land does is recognised generally by provisions allowing him to sell whatever saleable interest the tenant may have in the hold-

GPB—55,000—27-4-09

Serial No.

ing and to eject him, thereby determining the occupancy. (See N.W.P. Tenancy Act 1901 — ss. 57, 59 & 60. Punjab Tenancy 1887 — ss. 39 & 40, and Madras Rent Recovery 1865 — ss. 38, 41 & 44). S. 65 of the Bengal Tenancy Act of 1885 enacts that "where a tenant is a permanent tenure holder, a raiyat holding at fixed rates or an occupancy raiyat, he shall not be liable to ejectment for arrears of rent but his tenure or holding shall be liable to sale in execution of a decree for rent thereof and the rent shall be a first charge thereon."

Also Lease

On the whole, I am inclined to think that we may also make it a first charge and insert some such qualification as is contained in the Madras Estates Land Act

51. I would therefore suggest that the new S. 96 A be worded as follows:—

GPB—55,000—27-4-09

Serial No. 52

Any rent or land revenue (together with interest ~~charged~~ at rate fixed by any rules framed by Govt. under S. 154) payable by an inferior holder to a superior holder shall be a first charge on ~~any saleable interest that defaulter~~ the ~~inferior holder may have in~~ the holding or any part thereof, provided that nothing in this section shall affect any right of the Government, or any right or encumbrance created by the inf. holder with the Consent of the superior holder in writing (registered?) or before the date of this Regulation coming into force".

53. We may either leave the question of limitation as it is. If art. 132 is held to apply when the payt is sought to be enforced from the holding alone (leaving out the personal responsibility) ~~it~~ I think it will be applicable — the period of limitation will be 12 years. If this is considered too long, we may reduce it to

NOTE—Contn. sheet.

GPB—55,000—27-4-09

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6 years by inserting a Special article in the Land Regn. I ~~th~~ think it necessary to do this both for enforcing personal liability & the ~~liabi~~ Charge on the holding, as I think that the basis on which the Judges of the Bh. Court have come to this Conclusion is insecure. Mr. Justice Ranganadhan did not agree with me in holding that such payments were different from rent & were of the nature of land revenue. The logical consequence should have been that a period of 3 years limitation should have been held to apply as was held by the Ld Ch. Judge But he held that the period was 6 years, which was quite consistent with the view I advanced.

52. The period is reduced

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to 3 years under the Madras Estates Act and the jurisdiction of Civil Courts is taken away. I think it quite undesirable that we should follow this course

53. The period given in S. 97 may be raised to 2 years as proposed by the Rev. Comm^r.

56. In the new Section proposed, I have inserted words to have the effect of giving a right to superior holders to charge interest at the same rates as Govt.

I do not think they should be allowed to charge notice fees. Such fees are not allowed by Courts in the case of other private demands.

57. I am also for introducing

NOTE—Contn. sheet.

GPB—55,0-XI—27-4-0v

G. R. S. 12]
General and Revenue Secretariat.

L. & R. File No. 573 of 1907

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A Section analogous to S. 310A of the present Code of Civil Procedure.

D. V. Kanginmaiyya

10/12/10 C. S. B.

S. Hiriyanmaiyya

B.v.s detached & kept back as he is much.

9246 / 13.12.10 58 Dewan (1) It seems to me that the grievances brought to notice in Subject No. 94 of 1907 & Subjects Nos. 101 & 108 of the D. R. & A. Dept are genuine & call for the remedy that the Members making the Representations have asked for viz. for the entire levy & complyance with their request. I therefore vote for the Revenue Comm'rs proposed amendments substituting the words "paramount charge" for the words "first charge" proposed by him (2) The proposals of the Comm'r in regard to Subject 85 of 1907 and to give permanent occupancy of land seem to me to be also suitable.

3 Dec 10

NOTE—Contn. sheet.

GPB—55,000—27-4-09

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(3) Words thereupon have the same embodied in the shape of a draft Bill thought right at a Council meeting for its consideration.

(4) A draft of the rules framed by the Committee may also be brought at the same time.

The draft Amendments to be circulated by the Committee before the next sitting at Council meeting.

T. A. N.

Hon. Rev. Sec.

5. Please put up draft Bill.

C. S. B. 4/1

4/1

Secy.

Chief Secy.

Two drafts are submitted for approval considering the fact that the whole question arises chiefly with reference to superior Lhoros in main villages, it is a point for consideration whether the facilities which are now tended to

NOTE—Contn. sheet.

GPB—55,000—27-4-09

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be afforded to such holders should not be restricted to holders in riam villages vide remarks of the Under Secy, Rev Branch and the Asst Secy (heys 24 & 25 and 30 & 31).

to be framed the heys do not make any distinction between superior holders in alienated & unalienated villages

Clause 4 is adopted from the Madras Rent Recovery Amendment Act of 1908 which follows Civil Pro Code Sec 210 A of the British

2 KS (25) T. K. S
6/1/11
SN (11)

Please type the drafts with the changes indicated

26/1/11 S. Krishnamurthy

Asst Secy
2 heys typed and laid
(25)
26/1/11 T. K. S
SN (11)

61 Two drafts have been prepared - one according to the views of the Rev Commr as approved by the Dewan in his last order and the other according to the views of the 2nd Councillor with only such small modifications as were found to be necessary

62 In Draft A (according to the views of the Rev Commr) the phrase "paramount" change

NOTE — Contn. sheet.

GPB—50,000—12-8-10

Serial No.

has been used and as ordered by the Diwan.

63 It is respectfully submitted that by granting to the Inamdars a right of "paramount charge" we will be giving them something more than a "first" charge. A "paramount" charge under the Land Revenue Code may have the effect of extinguishing the rights of all other encumbrances over the property on which it is a charge whereas a first charge only postpones the rights of the other encumbrances. It is on this distinction apparently that the remedy of forfeiture in favour of Govt is restricted only to cases where the arrears due can be enforced as a paramount charge. The Inamdars gain nothing by our giving them a paramount charge as distinguished from a first charge.

64. With regard to the proposal of the Rev Comm to grant minor the Inamdars with power under Sec 59, Subject to such certain conditions, it has been noted that the power is a wide one

GPB—50,000—12-8-10

G..R S. 12]
General and Revenue
Secretariat.

L. R File No. 573 of 190 7

44

Serial No.

Settlement Inam villages Lawey has not yet been introduced

and our Inamdars will practically be judges in their own Cases to a certain Extent. The Grievance in this matter does not seem to be so widespread as to call for a remedy

S.H.

3/4/11 S. Hiriyannayya

See 7)
68 ~~154~~ sub 67 88 as directed by the Dewan

C.S.B. M

1/2/11

S. Hiriyannayya S.H.

Bring up with references 1/2/11
as requested by Bangalore

K.P.P. KM

Hannah 6/2/11

To be sent up to the after the return of the Councillor S.H. 8/2/11

S. Hiriyannayya

Keys

Submitted

S.H. (58) S.V.S.

18/2/11

20/2

NOTE—Contn. sheet.

BPG—55,000—27-4-09

Serial No. 66 The Inundation grievances are real and have been along time unredressed. The are placed in every disadvantageous position as regards recovery of their dues. The land for which the rent or assessment is due is not liable as a matter of course as in Govt villages. The proposed remedy to make the rent or assessment a first charge on the land has my approval. In this connection it does not appear expedient to make it a paramount charge on the land. The period of limitation may be revised at 6 years as it is undesirable to keep the debts unrecovered for a longer time.

67 I also agree to the proposal to extend the period of recovery of superior holders dues (see 97 L R Code) to two years. This would apply to Inundations as well as to holders of service lands

NOTE—Contn. sheet.

BPG—55,000—27-4-09

Serial No.

much of the hardship caused to ryots & landowners by the sale of their land for arrears of revenue would disappear by the introduction of the rule that sales may be set aside if the arrears with 5% of purchase money with cost are paid in within 30 days from the date of sale. Fraud & collusion to prevent bids will be rendered impossible by this rule.

18. I see no objection to powers under sec 59 L.R.Code being included in the Commission to be granted under sec 99 L.R.Code. This will benefit very few Zamindars. Every Zamindar experiences the same difficulty both here & to go to the Civil Court for his remedy. An extension of the powers to holders of all alienated villages seems desirable.

K.P.P. [illegible]

2/12/21

NOTE—Contn. sheet.

3PB—50,000—12-8-10

Serial No.

Subd to Sec 7.

[According to the Diwan's order, this has to be brought up at a Council meeting]

Sd S. Hariyannappa

Sends to 2nd C 22/2/11.

28/2/11

65. The file with the two draft bills should be taken to the 2nd C

C.S.B. M

28/2/11

1790

20 I have seen the two drafts. For reasons already given by me I prefer draft B.

71 As to the distinction between a first Charge and a Paramount Charge, some large book on Mortgages may be consulted. Wharton's Law Lexicon contains no description of these terms. I am not sure that there

Serial No.

is any substantial difference between the terms.

72 I do not understand what the Dewan refers to in his note of 3 Jan 1911 (P40) as the proposal of the Rev Cr in regard to fines for unauthorised occupation. The Rev Cr makes no definite proposal as far as I can see. Is it meant that Tahsildars should be empowered to levy such fines?

(The subject may now be placed before a meeting.) 28/3/11 H.V.N

Cess Hazy III

73 Please note in consultation with Mr D'Souza ~~what he does~~ about the difference between 'paramount' & 'first' charge. M.C.S.B 28/3/11

74. I discussed the matter with Mr D'Souza and he is also of opinion that the Land Revenue Code recognises a distinction between a 'paramount' charge and a 'first' charge. P.T.O.

NOTE— Contn. sheet.

GPB—50,000—12-8-10

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The following practical illustration makes the point clear

75 Suppose X holds a hypothecation over a land belonging to Y and that he has lost his personal remedy to recover the debt from Y either on account of lapse of time or otherwise. If Y, who continues in possession of the land makes default in payment of the revenue ~~to~~ due to Govt, the land will be forfeited and sold. If the proceeds of the sale are just Equal to the arrears due or a little less, no difficulty arises. But if the property fetches something more than the arrears then the balance has, acc^g to Sec 189 of the Land Revenue Code to be paid to the owner of the property - in other words to the defaulter.

76. Now X, the incumbrancer had a lien only against the land and when that land was forfeited and sold it went free from all Encumbrances over it. In other words, X's lien was Extinguished. As he retained no personal remedy he cannot follow the money in the hands of the defaulter - so that he loses his remedy ~~the~~ altogether

NOTE – Contn. sheet.

GPB—50,000—12-8-10

G. R. S. 12
General and Revenue Secretariat.

L.R. File No. 573 of 1907

Serial No.

If on the other hand the Govt had only a first charge, & the encumbrance's right to follow the proceeds* of the sale whether in the hands of the Govt or the defaulter would not be affected.

~~Except~~ I think however that Govt will not be much interested regarding this.

S. Hiriyannayya

29/3/11.

Sec'y. Please also consult Govt. advocate

~~Sub to 2nd~~ for perusal. C. S. B^{dy}

10/4/11

CSB

10/4/11

28. Forwarded to the Govt Advocate for favour of opinion.

B. O.

S. Hiriyannayya

10/4/11.

The word "paramount" is used in English Law, in respect of matters connected with the Crown. The expression

* i.e. that is, the amount the Govt. has after the Govt dues are satisfied

21-0.35

I 21/4

G. O. No. 45-79

NOTE— Contn. sheet

GPB—50,000—12-8-10

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"paramount charge" virtually means a charge which has precedence over all other charges like a Crown demand. But in respect of the charge proposed to be created in respect of the rent due by an inferior to a superior holder neither the expression "paramount charge" nor the combination "first charge" seems to be quite appropriate for the simple reason that the superior holder is only a pusne lord and the Government of Mysore is the lord paramount, and that the charge in favour of the Government of Mysore for the rent due by the superior holder is the "first" or paramount charge and prevails over that proposed to be created in favour of the superior holder. I would therefore suggest that the wording of section 143 of the Land Revenue Code, with some modification, as indicated below, may be substituted for the operative part of clause one of the draft Bill B.

"96A. Any rent or land Revenue (together with interest at rates fixed by any rules framed by Government under section 154) payable by an inferior holder to a superior holder shall have precedence over any other debt, demand or claim whatsoever, whether in respect of sale, gift, mortgage, judgment decree, execution or attachment or otherwise howsoever, against the whole or part of the holding or the holder thereof. provided that nothing in this section shall affect any right of the Government or any right or encumbrance created by the inferior holder with the consent of the superior holder in writing registered

Serial No.

or before the date of this Regulation coming into force.

20-4-1911 A. Narayan Rao
Govt advocate

Subd
[illegible]
[illegible]

80. It is not clear what difference the draft proposed above makes. The relation of "lord paramount" and "puisne lord" read to by the learned Govt Advocate does not seem to find a place in the land Systems of India - at all Events here in Mysore. The Inamdar is only an alienee or assignee of Govt revenue and the description given of him by the learned Govt Advocate - which term is appropriate enough in a System of land tenure based on feudal Conceptions - does not seem to be properly applicable to whom the Inamdar in Mysore

22/4/11. S. Hiriyanna

Sec'y 87. The wording suggested by the Govt Advocate seems to be simpler, clearer

GPB—50,000—12-8-10

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and more explicit than the draft put up in the Spice. It may be adopted with advantage.

Subj to 2nd ✓ CJZ C.S.B. WH 14

2 In the hypothetical case stated by the Asstt Secretary, I am not sure that the defaulter will not be held to be a constructive trustee for the mortgagee as regards the surplus money in his hands. If the rule of forfeiture were strictly applied, the defaulter would not be entitled to any surplus money. But the provision of S. 189 renders the Paramount charge virtually the same as a first charge. Still for reasons given by the Govt Adv., I think the words 'first charge' would be more appropriate in this Connection than a Paramount

NOTE— Contn. sheet.

GPB—50,000—12-8-10

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Charge. I see little difference between the forD advocates draft & draft B. I think the latter may be adopted & placed before the Leg. Council

H. V. Nanjundayya
Dewan

2/4/11

114.07
3.5.11

83

S. Hanumantha Rao
29/4/11

Personally I prefer D form & adopt the phrase "paramount charge". I do not like the alternative suggested by the Postmaster. But in the interests of action & progress I accept draft B. Let it be adopted & placed before the Legislative Council. We will give the subject more consideration

2 May 11

T. A. R

T. Ananda Rao
Dewan

points was furnished in his letter No.9699 dated 24th March 1910, and the Draft A in the file is the draft of a Bill to amend the Land Revenue Code as suggested by the Revenue Commissioner.

3. Draft B is in accordance with the views expressed by the Second Councillor in his minutes on the file. In this it is proposed to regard the rent due to a superior holder as a <u>first charge</u> on the holding, the words used in Draft A being <u>paramount charge</u>. Personally I prefer to adopt the phrase <u>paramount charge</u>, so as to give inamdars exactly the same facilities as the Government possess for the collection of their dues. The First Councillor is of opinion that these dues may be regarded as a <u>first charge</u>.

4. If approved, Draft B may be adopted, and placed before the Legislative Council, after the usual intimation to the Residency.

Dp. No. 2 dated 1-7-11 2276 5-7-11

Dp. No. 2 Encl. the file

The Palace,

1-7-11.

My dear Sir,

I am directed to return File No.2122 dated 25-6-11 and to say that while His Highness approves of the clauses in the amended Regulation which give greater facilities to Inamdars in collecting rents from their tenants, he feels considerable doubt as to the desirability of the last clause relating to sales of lands for arrears of Government Land Revenue. His Highness would like to see a much fuller discussion of the pros and cons of the amendment proposed on this subject. The papers contain only one argument in favour of amendment, viz., that it will tend to minimise fradulent sales. The answer to this argument is that the existing Regulation already provides a sufficient safeguard against fraud and it does not seem, at first sight, to be sound policy to allow a defaulting ryot to render nugatory the whole of the coercive machinery for the prompt collection of Land Revenue and to insist on the cancellation of a sale by the mere payment of the purchase money plus 5% and the expenses of the attachment and sale. Why should such a concession be given to a ryot who has allowed his land to be brought to sale simply and solely through his own default and in cases where the sale has been conducted with the most scrupulous regularity and without any suspicion and fraud? Then again, how are the expenses of these sales to be calculated for the purposes of the new rule? Such a calculation will be a very difficult matter and will involve the consideration of petty sums in a large number of cases and thus give a great deal of work to the Village and Revenue Officers.

The analogy of Civil Court sales is not a very strong one, for, a sale by the State for arrears of State Revenue is a very different thing from a court sale at the instance of a private Judgment-creditor against his debtor. Then again, how can any one

PRIVATE SECRETARY
MYSORE

be expected to bid at a Government sale for arrears of land-revenue when there is no finality about it and when it is open to any factious person to put up a party interested in the land to insist on the cancelment of the sale? It would seem that the Madras Government have introduced an amendment exactly similar to that proposed, into Madras Act II of 1864 but the papers submitted do not reveal what discussion took place on this amendment and what were the objects and reasons for the same. His Highness would like to know what the Law is in Bombay. It cannot be said that the work of Land Revenue collections in Mysore is as promptly done as it ought to be and His Highness fears that it will be done worse than ever if the sale of land for Government arrears is deprived of that facility which ought to attach to it if it is to be of any use as a weapon against persistant defaulters.

His Highness would like the whole question to be very fully discussed and noted on by yourself and the Councillors and he would also like to have the opinion of experienced Deputy Commissioners as to the effect that the proposed amendment is likely to have on Land Revenue Collection Work.

Yours sincerely,

9/11

Ananda Row Esq., C.I.E.,

Dewan of Mysore,

Tank View, Mysore.

Simla

D. O. No. 2530/Pol 2 July/11

87/1

86

My dear [illegible]

I have duly received your D.O. No. x 2 of yesterday's date on file No. 2122 -

x but w/s C.R. 8/7/14

The particular point noticed is by far the least important of the amendments of the Land Revenue Code proposed ~~to Draft B~~ and can very well afford to be over, or even dropped altogether.

The other amendments viz. Inamdars' dues & the period of limitation in respect of them are most important and

urgent, and I am anxious
to get them ~~passed~~ through the
Legislature. Council before
the next meeting of the
Ref: Assembly, as a
promise was given in regard
to last Legislation, and
that promise stands un-
redeemed these 3 years or
more — May I request
that you ~~communicate with the~~
Secretary to proceed with
the legislation in regard to
Treasurers' dues, and
the views ~~to be taken~~
as to whether Draft No Draft B
has

As there seem to have been an appeal,

59

2 — 59/3

[illegible]

A. R

[illegible]

[illegible] Campbell Esq 165

Case these two alternatives will be considered & discussed by Select Committee

D. No. 2792

The Palace, Mysore,

3rd July 1911.

My dear Sir;

In reply to your D.O.No.2530 dated 2-7-11

I am directed to say that His Highness has no objection legislation being proceeded with in respect of Inamdar's Rents and the subject of sales of land for arrears of Revenue being left over for separate treatment.

As regards Inamdars Rents His Highness accepts Draft B as a basis for legislation.

Yours sincerely

3. 7. 1911

T. Ananda Rao, Esq., C.I.E.,

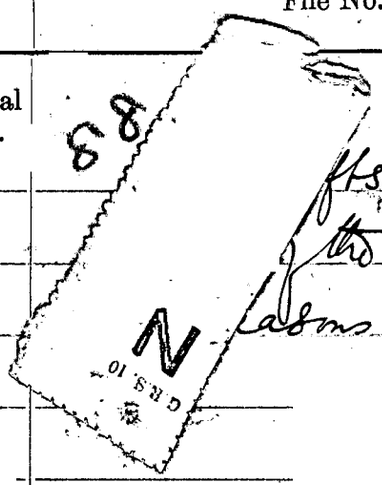
Dewan of Mysore,

Bangalore.

61

Serial No.

88



Under Dewan's personal orders the file is treated as immediate.
- SA

ffs paDo. H'ble Resident, the Statement of objects & reasons are put up for approval.

SA
14/7/11. S. Hiriyannayya

89 2nd Ctr of Dewan

Drafts appd.

H.V.N

12/7/11

12-7-11

SA
14/7/11

90 The draft Do.., which was approved by the Dewan and issued from the Dewan's office, is placed on file.

C.S.R
13/7/11

C.S.R
14/7/11

SA S. Hiriyannayya
14/7/11

91 Place the changes made in the drafts and the points kept open for the Leg Council.

14/7

Drafted
14/7/11 S.V.S

14/7/11. SA S. Hiriyannayya Secy

NOTE— Contn. sheet.

GPB—50,000—12-8-10

G. R. S. 12]
General and Revenue Secretariat.

Legis File No. 6 of 1911-12

Serial No.	
4	No. S.O. 2581 dated 13/7/11
	To the Hon'ble the British Resident
	in Mysore, Bangalore
	Forwards a copy of the draft
	bill to amend the Land Revenue
	code with a statement of objects
	and reasons and informs that it
	would be laid before the Legis. Cl.
5	No 4180 dated 15th July 1911
	From ~~the Hon'ble the~~ H. A. Resident
	~~Informs~~ States that there is no prima facie
	objection to the Bill being laid
	before the Legis. Cl.
	~~Submitted with draft bill~~
	~~Cl~~ (S.S.) S.V.S.
	18/7/11 SV
	perhaps
9	The bill may be
	published in the Gazette
	under rule 32 of the
	Leg. Council rules
	Subd to Dewan
9	SK
	18/7/11 S. Krishnamachari
	T. Ananda Rao
	18/July/11 Dewan

NOTE—Contn. sheet.

GPB—50,000—12-8-10

G. R. S. 12]
General and Revenue Secretariat.

Legs File No. 6 of 1911-12

Serial No.

I S Line Notification

S. Hiriamanna

18/11.

Notification issued
No 33 L.C. dated 19th July 1911
to the Compiler Mysore Gazette
Forward the Notn for publication.

14. The report of the Select Committee on the Land Revenue Code Amendment Bill is laid for further orders, if any. The report has been concurred in by both the Councillors. The changes recommended are fully explained in the report

Laid on Table

S. Hiriamaiya

15 Papers 3/2/12
Dy T. Ananda Rao
Dewan
6/2/12

16 The bill was introduced before the Legislative Council at the meeting held on the 11th Sept 1911 when it was referred to a Select Committee for Consideration and

NOTE—Contn. sheet.

GPB—50,000—12-8-10

G. R. S. 12]

General and Revenue Secretariat.

leg File No. 6 of 191/-12

Serial No.

and upt. The report of the Committee was presented and considered at the last meeting of the Council held on the 21st ultimo when it was resolved to take up and pass the Bill at a subsequent meeting. The sanction of the Govt. of India has now to be obtained & submitted with a draft to the Residency.

T. K. S. 7/8/12 S.W.D. 7/3/12 Draft may be appd

7/3/12 S. Hariyamangalam

H. V. Nanjundayya

12

2nd C.L. Dewan 8/3/12

Draft appd by 1st C.L.

8/10/12 S.S. Hariharaiyer

10/4/12 11.3.12

11/3/12

Draft appd by the Dewan

leg 25.3.12 G.A.

Issue

C.S.B. 28/3/12

17/4/12

NOTE—Contn. sheet.

GPB—20,000—20-1-12

G. R. S. 12]

General and Revenue Secretariat. | Legis File No. 6 of 1911-12

Serial No.	
6	No Pol 854 dated 9/6/12
	To the F. A. Resident
	Forwards the Bill as finally adopted by the Legis. Cl. and requests that the Govt of India Sanction may be obtained for its being passed into law.
7	No 2703 dated 9/5/12
	From the F. A. Resident.
	Intimates that the Governor General ~~of India~~ in Council has accorded his consent to the draft bill being passed into Law on the usual understanding about retention by him of the power vested in him by virtue of the Instrument of Transfer.
	Submitted
	S.V.S. (58) SW(11)
	10/5/12 11/5/12
	Subd to 1st C.R. for
	101
102	H.V. Nanjundayya S. Kiriamaiya
	16/5/12 11/5/12
	18/5

NOTE—Contn. sheet.

GPB—20,000—20-1-12

G. R. S. 12]

General and Revenue Secretariat.

Leg File No. 6 of 1911-12

Serial No.	
	63. The Bill was finally passed by the Legislative Council at the meeting held on the 1st June 1912. Sanction of H.H. the Maharaja has to be obtained for the promulgation of the Bill as law. Submitted with a Copy of the Bill as finally passed for the Dewan's signature being obtained thereto as required by Rule 52 of the Legislative Council Rules.
H. D.	JKS (25) T. K. S 6/6/12
	6/6/12 S. Hivavarayan
	1670 8-6-12 Dewan 6/6 K. R. S

NOTE—Contn. sheet.

GPB—20,000—20-1-12

Submitted to His Highness.

"Draft for approval".

I solicit sanction for the promulgation of the "Bill further to amend the Mysore Land Revenue Code, Regulation IV of 1000" as law. The Bill was finally passed by the Legislative Council at the meeting held on the 1st June 1912, and the consent of the Government of India to the draft bill has also been conveyed in Residency letter No.2703 dated 9th May 1912.

T

BR

T Chandra Rao
27/VI/12

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.

Promulgation of the "Bill further to amend the Mysore Land Revenue Code, Regulation IV of 1888" as law.

799

Order.

Sanctioned

~~KRW~~

25/6/12

Seen

T. Ananda Rao

26.6.12

H.V. Nanjundaiya

K.R.S

28/6

27/6

S. Hiriannaya

29/6/12

G. R. S. 12]

General and Revenue Secretariat.

Leg File No. 6 of 1911-12

Serial No.	
	Draft order to the Compiler for publication of the Bill as Regn V of 1912 & submitted for approval - After issue of the draft K.D. 29/6/12 the file will be forwarded to Branch I for consideration of the question re introduction of a section similar to Sec 310 A of the C.P.C.
	No SW(11) 29/6/12 T.K.S (1) Please (2) Let me see proof
	29/6/12
8	No J 29 dated 2/7/12 to the Compiler Mysore Gazette Forwards for publication as Regn I of 1912 the Bill further to amend the Land Revenue code 1888 which received the assent of His Highness on the 25th day of 1912 Submitted Spare copies of the ~~Bill~~ Regn have been received and compared. Copies have as usual to be sent to the Residency. A draft letter

Proof rabbed. by the Asst. Secy

5/7/12

NOTE—Contn. sheet.

GPB—20.000—20-1-12

J. R. S. 12]

General and Revenue Secretariat.

Legis File No. 6 of 1912-12

Serial No.	
	to the Residency is herewith forwarded.
	(58) (11)
	9/7/12
	Lt. Col.
	S. Hinchcliffe
	11/7/12
9	No Pol. 52 dated 17/7/12
	to the F. A. Resident-
	Forwards 10 copies of the Regn.

NOTE—Contn. sheet.

GBB—20,000—20-1-12

Rev. Commissioner's
Re Comm'r
Re

A

DRAFT A.

A Bill further to amend the Mysore Land Revenue Code Regulation IV of 1888.

Preamble. Whereas it is expedient further to amend the Mysore Land Revenue Code, Regulation IV of 1888: His Highness the Maharajah is pleased to enact as follows:-

Addition of a Subsection to Section 54. 1. The following shall be added as subsection (2) to Section 54 the present section being numbered as subsection (1), Viz,

Arrears of Land Revenue due to superior holders from inferior holders. " (2). For purposes of sections 97 and 99, arrears of rent by way of Land Revenue due to superior holders by inferior holders or by Cosharers in their holdings on account of land held by them shall be a paramount charge on the holding and every part thereof. But nothing herein contained shall affect any right of the Government, ~~(or the period of limitation now allowed for recovery of such amount by Civil suit").~~

Together with interest & rates fixed by any rule framed by Govt under Sec 157

Amendment of proviso to Section 97.

2. The words " within two years from the end of the revenue year or the year of tenancy" shall be substituted for the words " within the revenue year or within the year of tenancy" in the proviso to Section 97.

Amendment of clause (d) of Section 99

3. The following shall be substituted for clause (d) of Section 99, Viz,

" (d) to exercise the powers of a Deputy Commissioner under section 59 63, and 64 subject to the condition that the fines leviable under these sections shall be determined by a Revenue Officer not inferior in rank to an Assistant Commissioner".

Generally in Each Case

Insertion of a new Section after Section 183.

4. The following section shall be inserted as Section 183 A after Section 183, Viz:-

Application to set aside sale of immovable property on deposit.

" 183 A. Any person owning or claiming an interest in immovable property sold under this Regulation may, at any time within 30 days from the date of sale deposit in the Treasury of the Taluk in which —

immovable
the property is situate

" (a) a sum equal to five percent of
our
the purchase money,

"(b) a sum equal to the arrears for
of proclamation
which the immovable property was sold
together with interest thereon and the
expenses of attachment, management
and sale and other costs due in res-
pect of such arrears;

and may apply to the Deputy
Commissioner to set aside the sale.

(2) If such deposit and applica-
tion are made within 30 days from the
date of sale , the Deputy Commissioner
shall pass an order setting aside the
sale and shall repay to the purchaser
the purchase money so far as it has
been deposited together with the five
percentum deposited by the applicant.

Provided that if more per-
sons than one have made ~~deposits~~ deposits and ~~applications~~ applications
~~applied~~ under this section the appli-
cation of the first depositor to the
officer authorised to set aside the

sale shall be accepted.

(3) If a person applies under Section 184 to set aside the sale of immovable property , he shall not, unless he withdraws such application, be entitled to make an application under this section.

Amendment of section 185.

5. In Section 185, for the words " if no such application as is mentioned in the last preceding section" the words " if no such application as is mentioned in Section 183 A or Section 184 ~~Mysore Land Revenue Code~~" shall be substituted.

Amendment of Schedule I of the Mysore Limitation Regulation, 1911.

6. The following article shall be inserted after article 119 of the first schedule to the Mysore Limitation Regulation, 1911, Viz:

119 A.	By a superior holder to recover arrears of revenue from an inferior holder ~~under the Mysore Land Revenue Code~~.	Six Years .	The end of the Revenue year for which the amount became due.

Now Govt is intended to give effect to the amendment in Code

3

2nd Committee.
2. Reference

B.

D R A F T. B.

A Bill further to amend the Mysore Land Revenue Code , Regulation No IV of 1888.

- - - - - - -

Preamble.

Whereas it is expedient further to amend the Mysore Land Revenue Code, ~~Regulation IV of~~ 1888; His Highness the Maharajah is pleased to enact as follows:-

Insertion of a new section before Section 97.

1. The following new section shall be inserted under the heading " Recovery of superior holders dues" and before section 97 as section 96 A viz

" 96 A. Any rent or land revenue (together with interest at rates fixed by any rules framed by Government under Section 154) payable by an inferior holder to a superior holder shall be a first charge on the holding or any part thereof, provided that nothing in this section shall affect any right of the Government or any right or encumbrance created by the inferior holder with

with the consent of the superior holder in writing registered or before the date of this Regulation coming into force.

Amendment of proviso to section 97.

2. The words "within ~~the~~ two years from the end of the revenue year or the year of tenancy" shall be substituted for the words 'within the revenue year or within the year of tenancy" in the proviso to Section 97.

Insertion of a new section after Section 183.

3. The following section shall be inserted as Section 183 A after Section 183, Viz;—

Application to set aside sale of immovable property on deposit.

" 183 A. Any person owning or claiming an interest in immovable property sold under this Regulation, may, at any time within 30 days from the date of sale, deposit in the Treasury of the Taluk in which the property is situated for immovable

"(a) a sum equal to five percentum of the purchase money.

"(b) a sum equal to the arrears for which the immovable property was sold together with interest thereon and

and the expenses of attachment, management, and sale and other costs due in respect of such arrears.

and may apply to the Deputy Commissioner to set aside the sale.

(2) If such deposit and ~~application~~ application are made within 30 days from the date of sale, the Deputy Commissioner shall pass an order setting aside the sale and shall repay to the purchaser the purchase money so far as it has been deposited together with the five percentum deposited by the applicant.

Provided that if more persons than one have made ~~deposits~~ deposits and ~~applied~~ applied under this section the application of the first depositor to the officer authorised to set aside the sale shall be accepted.

(3) If a person applies under section 184 to set aside the sale of immovable property, he shall not, unless he withdraws such application, be entitled to make an application

application under this section.

Amendment of Section 185

4. In section 185, for the words " if no such application as is mentioned in the last preceding section" the words " if no such application as is mentioned in Section 183 A or Section 184 ~~has been made~~" shall be substituted.

Amendment of Schedule I to the Mysore Limitation Regulation, 1911.

~~5.~~ 3. The following article shall be inserted after article 119 of the first schedule to the Mysore, Limitation Regulation, 1911 Viz,

119 A. By a superior holder to recover arrears of revenue from an inferior holder ~~under the Mysore Land Revenue Code.~~	Six years.	The end of the revenue year for which the amount became due.

Lus 6-191

C.R.S. 26]

File No. 37/30

Serial No. 1

Diary No. of letter replied to _____

Letter No. R. 8016

dated 4th June 1908 from P. de Zoysa Esq Mag K.K.;

General and Revenue Secretariat

(L.R.)

, the 190 .

To

The Rev. Conr

in Mayoor

Date of issue 9/6/1908

Signed by P. E. de Zoysa Esq

Sir

I am directed to ~~request you to be so good as to favor Govt with your opinions on the points reserved for consideration in the replies of Govt~~ invite your attention to subjects No. 85 and No. 94 of the R. A. Proceedings of 1907 and the expediency or otherwise of amending the Land Rev. Code (and perhaps also the Limitation Act) in connection therewith, and the scope of such amendments.

No. 94. Recovery of arrears in Inam villages.

No. 85 Cancelling revenue sales when the defaulter pays up the arrears before confirmation

I have &c

for Secretary

over.

the replies I ask thereto and request you to favour me with your opinion the matter and whether any amendments in the Land Rev Code & the Limitation Act are necessary

4/6/08

SUBJECT

4/6/08

Copied
ens
7/6

And whether any
is of the Ordinances
or Statutes of amending
the Land Revenue Code and
the Limitation Act and
the rules of Court amended

by
Dr. J. Levy
4/6/08 4/6/08

List of enclosures.

Copied by

Examined by Compd
RJC
8/6/08

MGCPB—30,000—16-2-05

Legis 6-11

File No. 573-07

Serial No X 2

Diary No. of letter replied to _____

General and Rev. Secretariat

(L.R.)

, *the* 190 .

Date of issue 28.1.09

Signed by [illegible] P. 6/1/09

Letter No. R 5423

dated 28th January 1909

P.S. Dr. Sandberg Rpts., Rpts.,

To

The Rev. Comr. in Mysore

Sir,

In continuation of this office letter No. R 8016 – L.R 573-07-3 dated 9th June 1908 requesting an expression of your opinion on Subjects No. 85 and No 94 of the R. A. Proceedings of 1907 as to the expediency of amending the Land Rev: Code, I am directed to invite your attention to Subjects No. 101 and 108 of the R. A. Proceedings of 1908 and to request you to be so good as to favor Govt with your opinion on all the points refered to in the above representations as

over.

with the object of providing extension of facilities to ryots & inamdars villages to recover their dues from their tenants

No. 101. Extension of the period for the recovery of arrears of Kandayam due from ryots to godidars and kowans of Inam villages from one to three years

No. 108. Collection of revenue in Inam villages

SUBJECT.

Legis 6 of 1911-12 Serial 3

No. 9699. Office of the Revenue Commissionerin Mysore,

Dated Bangalore, 24th March 1910.

29

From

Rajakarya Pravina A. Rangaswami Iyengar Esq., B.A., B.L.,

Revenue Commissioner in Mysore.

To

The Secretary to the Government of His Highness

the Maharaja of Mysore, Gen. & Rev. Deptts.

Bangalore.

Sir,

With reference to your letters Nos. R 5010/ L R 573-07-3 and R 5453/ L R 573-07- dated 9th June 1908 and 28th January 1909 respectively, calling for my opinion on the marginally noted subjects of Representative Assembly Proceedings of 1907 and 1908, I have the honor to state as follows:-

Subject Nos. 85 and 94 of 1907

Subject Nos. 101 and 108 of 1908

2. I shall first take up subjects No. 94 of 1907 and Nos. 101 and 108 of 1908 which relate to the question of affording greater facilities to holders of alienated villages in recovering their dues from their tenants. The prayers of the Inamdars, as may be gathered from their representations, are three in number, and they are as follow:-

(a) That the rent payable by an inferior holder to a superior holder on account of land held by him may be made a paramount charge or a first charge upon the holding.

(b) That the time prescribed for making an application under section 97 for assistance for the recovery of rent may be extended from one to three years.

(c) That the period of Limitation recently fixed by the Chief Court for the recovery through Civil Court of arrears of rent due by an inferior holder to his superior holder may be

extended

extended from six to twelve years.

3. For reasons explained in my judgment in second appeal No. 64 of 1905-6 (N. Subba Rao Vs. Veera Naika) on the file of the Chief Court and concurred in by the Chief Judge, I am of opinion that the provisions of our Land Revenue Code treat the Land Revenue due on lands in an alienated village as rent, and in this respect differ slightly from those of the Bombay enactment. The superior holders or Inamdars have no lien on the land for the arrears due thereon and can sell through the Revenue Officers or the Civil Courts only the right, title and interest of the tenant in the land. Thus they labour under all the drawbacks and disadvantages depicted by Mr. Nanjundayya in the 5 th para from the end of his final judgment in the above case. (Vide page XIV of Part I of the Proceedings of the Government of Mysore for August 1906).

4. This is indeed very hard upon the Inamdars. I note below the provisions of the Madras Estates Land Act, 1908, to show the rights and privileges enjoyed by their compeers in the Madras Presidency and the facilities given for collecting the arrears of rent in the nature of land revenue due to them.

<u>The Madras Estates' Land Act.</u> <u>The Mysore Land Revenue Cod</u>

sec. 5 (i) The rent of ryoti land together with at ½ per cent per month (vide Sec. 61), interest which may be due in respect thereof shall be a <u>first charge</u> upon the holding and upon the produce of the holding or any part thereof.....

Sections 194 and 195 of the Act also provide that in a suit or other Proceeding between a landholder and

The Madras Estates Land Act	The Mysore Land Revenue Code
his ryot the collector should not take cognizance of the plea of the ryot that rent is not due to the plaintiff but to third persons or that the rent is excessive, unless the ryot pays into his Court the amount admitted to be due by him.	
sec. 45 Under this section a landholder can recove in accordance with the provisions of the Act, rent on a ryoti land unauthorizedly occupied by a person together wit such sum as the Collector may award as damages for such unauthorized occupation.	The benefit of sec. 59 of our Code which provides a penalty for unauthorized occupation of land in an unalienated village is not extended to superior holders in alienated villages.
sec. 77 The Landholder may institute a suit ~~s~~ before the Collector for the recovery of the arrears within three years after an arrear of rent becomes payable.	In the case of a superio holder of an alienated village in this State the suit lies to a civil Court and the period of limitation is six years.
sec. 77 (2) The landholder may in addition to any other remedy ~~provided~~ provided in the Act in respect of any arrear of rent which has accrued due within the next preceding twelve months distrain upon his own responsibility	According to section 57 of our Land Revenue Code the Inamdar can only seek the assistance of the Revenue officers for the execution of the necessary coercive processes

The Madras Estates Land Act

the moveable property of the defaulting ryot or the growing crops or the produce of the land or trees in the defaulter's holding.

When there is a conflict between the right of a landholder distraining produce over which he has a first charge under sub section (1) of section 5 and the right of a person claiming under an attachment by a Civil Court, sec. 109 of the Act provides that the right of the landholder shall prevail.

Under the Madras Act a landholder may recover arrears of rent by the following processes:-

(1) By distraint and sale of the defaulters' moveable property as already observed.

(2) By serving a written notice of intention to sell the holding in respect of which the arrear is due, through the Collector. Such notice shall be sent to the Collector within one year from the end of revenue year for which *the arrear* is due.

(3) By sale of the defaulters holding.

The Mysore Land Revenue Code

under sections 158,159 160, 161,163, and 164. It is a moot question whether the effect of section 157 read with section 143 does not give a priority of lien on land and crops to our superior holders as regards arrears for the current year.

The Code provides that a superior holder may recover arrears of rent due to him by any of the coercive processes described in sections 156, clauses (a) to (e) to be enforced by revenue officers. The application has to be made in cases falling under section 97 within the revenue year. But in cases of a Commission having been issued under sec. 99, action may be taken either in the revenue year or the year following (sec. 103)

The Madras Estates Land Act

Under the Madras Act forfeiture is not a necessary preliminary for proceeding with the sale of the land.

The Mysore Land Revenue Code

The Mysore Code is somewhat obscure on this point. Apparently under sections 156, 157 and 159 forfeiture and sale of the defaulters' holding are provided for and under sec. 157 there would be a lien on the holding and crops thereon for the arrears due for the current year. But it is difficult to construe the clause ~~"~~ occurring in section ~~159~~ 159 providing for ~~"~~ forfeiting to Government ~~"~~ such a holding. The practice in Mysore on this head is divergent and the point should be cleared up when the Code is amended. In this connection, I may refer to Notes 11 and 28 to sec. 86 in H.V. Sathe's Bombay Land Revenue Code and Rules, 1904, from which it will be seen that the Bombay Government held at one time the opinion that a tenancy ~~by~~ could be forfeited under sec. 54 for arrears

The Madras Estates Land Act	The Mysore Land Revenue Code
	arrears of rent due to an Inamdar but were inclined to doubt its correctness subsequently.
sec. 125 When the holding or part of a holding is sold for arrears due in respect thereof, the purchaser shall take, subject to any right or interest which the ryot has created therein with the landlord's permission in writing registered and subject also to any encumbrances created before the passing of the act.	Nil
Any encumbrance subject to which the property is liable to be sold will also be specified in the proclamation of sale (sec. 117 sub sec. 2 clause c)	

5. No provision is made in the Madras Act nor is there apparently any provision in our Code as to the procedure to be adopted if a land sold for arrears of rent should fail to elicit a bid. In such a case the only remedy ~~is~~ opened to the superior holder would probably be to buy the holding in as the Government used to do formerly.

6. It will be seen from the above that under the Madras Act the arrears of rent together with interest at 6 per cent from due date is a first charge on the land and has priority over encumbrances or other liens over the said lands not created with the knowledge and acquiescence of the ~~land~~ Superior holder though the

period of limitation for such arrears is limited to three years. We should at the very least grant our Inamdars the safeguards and facilities allowed in the said Act which as the latest Rent Law of British India may be considered to embody in it the most recent views of the British Indian Governments on the subject.

7. I would however go a step further. There are few Jaghirs worth the name in our state. The majority of the alienated villages are small and are held by a number of sharers or Vrittidars many of whom are absent from the villages. Very few among them possess any intelligence or influence or are capable of taking out the various processes under the Law in time and with precision. Our Revenue Officers also do not act with sufficient promptness or exactitude. Moreover, if the period is thus shortened and the procedure is made strict, they will react on the ryots with rigour and it will become impossible for the landholders to show them any consideration in times of drought or distress.

8. I would therefore permit them to seek the aid of our Revenue Officers within two years subsequent to the year in which the arrear of rent accrued. I do not think it necessary to extend the period of six years' Limitation now enjoyed by the Inamdars under the Civil Court Decision.

9. The modifications which I would thus propose are two and will be understood at a glance by the amendments in the existing law proposed below:-

(1) A sub section may be added to sec. 54 of our Land Revenue Code as follows:- " For purposes of sections 97 and 99, arrears of rent by way of land revenue due to a superior holder by inferior holders or by co-sharers in their holdings on account of land held by them shall be a first charge on the holding and every part thereof. But nothing herein contained shall affect any right of the Government nor shall it affect the period of limitation allowed for Civil suits for recovery of such amounts. "

(2) Secondly, in the proviso to section 97 the words " within two years from the end of the revenue year or the year of tenancy " may be substituted for " within the revenue year or within the year of tenancy." The proviso will now read thus:-

" Provided that such application be made within two years from the end of the revenue year or the year of tenancy in which the said rent or land revenue became payable."

10. The amendments proposed above will, I think, sufficiently answer the Inamdars' requirements.

In this connection I may also urge the desirability of conferring upon a superior holder by commission the powers of a Deputy Commissioner under section 59 as regards the levy of full assessment on a survey number or proportionate assessment of an assessed survey number which might be occupied without permission. When in fact he could be invested with higher powers of a Deputy Commissioner under sections 63 and 64, no object is gained by withholding from him the extension of the benefits of section 59 thus if modified. This will save him the trouble of resorting to Civil Court for rent alone. I am however of opinion that the grant of powers of a Deputy Commissioner under sections 59, 63 and 64 should be made subject to the proviso that the fines leviable under those sections should be determined by revenue officers alone.

11. Next, as regards the general question raised in subject No. 85 of 1907, I may say at once that the introduction of a provision similar to section 310 A of the Civil Procedure Code in respect of revenue sales is very desirable. While giving the purchaser a moderate gain on his purchase money, it will protect the occupant or other person interested in the occupancy sold from serious loss and give him an opportunity for recovering

the

the holding if sold for a low value or without proper notice to him and thus minimise the number of fraudulent sales. Such a provision finds a place even in the Madras Rent Act (Vide section 131) and I believe it is enforced in the ordinary revenue sales in the Madras Presidency.

I have the honor to be.

Sir,

Your most obedient servant,

K Subbarao

For Revenue Commissioner.

Legis 6 of 1911-12
Serial 4

GOVERNMENT OF MYSORE

D. O. No. 2581/Sec.

General and Revenue Secretariat,

Bangalore, the 13 July 1911.

I am directed to forward herewith for the information of the Hon'ble The Resident in Mysore,

Dear Sir,

I enclose herewith a Bill to amend the Mysore Land Revenue Code, 1888. The statement of objects and reasons thereto explains the nature and scope of the Bill. The subject has been brought every year before the Representative Assembly since 1907, and the Durbar consider that the representation of the Inamdars, which is based on real hardship, requires early consideration. With this object the accompanying Bill has been prepared. It will be laid before the Legislative Council at an early date and ~~unless~~ ~~we hear that~~ I shall be obliged by being informed at your early convenience if there be any objection to this being done

Yours truly

13/July 11

To

The Hon'ble Col. Hugh Daly C.S.I., C.I.E.

(Devan)

A Bill further to amend the Mysore Land Revenue Code, Regulation IV of 1888.

- - - - - - -

Preamble.

Whereas it is expedient further to amend the Mysore Land Revenue Code, 1888; His Highness the Maharaja is pleased to enact as follows:-

Insertion of a new section before Section 97.

1. The following new section shall be inserted under the heading "Recovery of superior holders' dues" and before section 97 as section 96 A, Viz.,

Land Revenue payable to a Superior holder by an inferior holder to be a first charge on the holding.

" 96 A . Any rent or land revenue (together with interest at rates fixed by any rules framed by Government under section 154) payable by an inferior holder to a superior holder shall be a first charge on the holding or any part thereof, provided that nothing in this section shall affect any right of the Government or any right or encumbrance created by the inferior holder with the consent of the superior holder in writing registered or before the date of this ~~registration~~ Regulation coming into force.

Amendment of proviso to section 97.

2. The words " within two years from the end of the revenue vear or the year of tenancy" shall be substituted for the words " within the revenue year or within the year of tenancy" in the proviso to section 97.

Amendment ~~to~~ of Schedule I to the Mysore Limitation Regulation, 1911.

3. The following article shall be inserted after article 119 of the first schedule to the Mysore Limitation Regulation, 1911. Viz,-

119 A.	By a superior holder to recover arrears of revenue from an inferior holder.	six years	The end of the revenue year for which the amoun became due

Statement of Objects and Reasons.

-----:::-----

In the case of N. Subba Rao Vs.Veera Naika decided in 1906 (Volume XI, Mysore Chief Court Reports, p 118) a majority of the Judges of the Chief Court of Mysore held that the money payable by an inferior holder (whether a kadim tenant or not) to a superior holder in respect of land in an alienated village was not a charge on the holding in respect of which the arrears accrued, and that the period of limitation applicable to suits for the recovery of such dues was six years.

2. This decision is represented as working great hardship on the Inamdars in the State. They complain that in the absence of a charge on the holding, it is nearly impossible for them to recover their dues, particularly in cases of fraudulent alienation of the land by the inferior holder. As the alienees of rent or land revenue, they ~~claim~~ represent that the arrears due to them may be regarded as a paramount charge on the land, in the same manner as the assessment due to Government in respect of Government lands ~~villages~~

3. The representation of the Inamdars appears to the Government to be reasonable. In their opinion there can be no injustice in imposing on the land held by the tenants in Inam Villages an obligation which rests on all lands in Government villages in respect of revenue payable to Government. It may be noted that under the Madras Estates Land Act of 1908, which applies to Zamindaries and Inam Villages, a right of first charge has been conceded to the owners of estates.

4. This Bill has ~~therefore~~ been prepared with the object of allowing to the Inamdars in this State the same right, viz., of treating the rent or revenue due to them as a first charge on the holding. ~~Govern~~ Govt as at present advised dont propose to ~~ment are not, however, in favour of~~ allow~~ing~~ the Inamdars' dues to be treated as a paramount charge. Nor do they consider it desirable that the period of limitation applicable to suits for the recovery of these arrears should be extended to 12 --- Six years. In Bombay, ~~6~~ years is the period

prefer to leave the question open for consideration by the Select Committee of the Legislative Council

applicable to such suits and this has been adopted in the Bill.

5. Clause 2 of the Bill refers to a slight alteration in Section 97 of the Land Revenue Code under which a superior holder may seek the assistance of the Deputy Commissioner to recover his arrears from the inferior holder "within the revenue yearer or within the year of tenancy". This period is represented as too short, very often especially for example in a year of scarcity when the ryot may not be able to pay up the Kandayam within 12 months or a poor harvest. In his own interests it may be necessary to allow a longer time for the recovery by the Inamdar of the arrears due to him. It is considered that a period of two years is sufficient, though the Select Committee might agree to it the Govt. will be prepared to accede to a term of 3 years.

S.M.

A Bill further to amend the Mysore Land Revenue Code Regulation No. IV of 1888

Whereas it is expedient further to amend the Mysore Land Revenue Code 1888; His Highness the Maharaja is pleased to enact as follows:—

Preamble.

Insertion of a new section before Section 97.

1. The following new section shall be inserted under the heading "Recovery of superior holders dues" and before Section 97 as Section 96 A, *viz.*

'Land Revenue payable to a superior holder by an inferior holder to be a first charge on the holding.

"96 A. Any rent or land revenue (together with interest at rates fixed by any rules framed by Government under Section 154) payable by an inferior holder to a superior holder shall be a first charge on the holding or any part thereof, provided that nothing in this section shall affect any right of the Government or any right or encumbrance created by the inferior holder with the consent of the superior holder in writing registered or before the date of this Regulation coming into force."

Amendment of proviso to Section 97.

2. The words "within two years from the end of the revenue year or the year of tenancy" shall be substituted for the words "within the revenue year or within the year of tenancy" in the proviso to Section 97.

Amendment of Schedule I to the Mysore Limitation Regulation, 1911.

3. The following article shall be inserted after Article 119 of the first schedule to the Mysore Limitation Regulation, 1911. *viz.*—

"119 A. By a superior holder to recover arrears of revenue from an inferior holder.	Six years.	The end of the revenue year for which the amount became due."

STATEMENT OF OBJECTS AND REASONS.

In the case of N. Subba Rao *vs.* Veera Naika decided in 1906 (Volume XI, Mysore Chief Court Reports, page 118) a majority of the Judges of the Chief Court of Mysore held that the money payable by an inferior holder (whether a *kadim* tenant or not) to a superior holder in respect of land in an alienated village was not a charge on the holding in respect of which the arrears accrued, and that the period of limitation applicable to suits for the recovery of such dues was six years.

2. This decision is represented as working great hardship on the Inamdars in the State. They complain that in the absence of a charge on the holding, it is nearly impossible for them to recover their dues, particularly in cases of fradulent alienation of the land by the inferior holder. As the alienees of rent or land revenue, they represent that the arrears due to them may be regarded as a paramount charge on the land, in the same manner as the assessment due to Government in respect of Government lands.

3. The representation of the Inamdars appears to the Government to be reasonable. In their opinion, there can be no injustice in imposing on the land held by the tenants in Inam villages an obligation which rests on all lands in Government villages in respect of the revenue payable to Government. It may be noted that, under the Madras Estates Land Act of 1908, which applies to Zamindaries and Inam villages, a right of first charge has been conceded to the owners of estates.

4. This Bill has been prepared with the object of allowing to the Inamdars in this State the same right, *viz.*, of treating the rent or revenue due to them as a first charge on the holding. Government, as at present advised, do not propose to allow the Inamdars' dues to be treated as a paramount charge and prefer to leave the question open for consideration by the Select Committee of the Legislative Council. Nor do they consider it desirable that the period of limitation applicable to suits for the recovery of these arrears should be extended to twelve years. In Bombay, six years is the period applicable to such suits and this has been adopted in the Bill.

5. Clause 2 of the Bill refers to a slight alteration in Section 97 of the Land Revenue Code under which a superior holder may seek the assistance of the Deputy Commissioner to recover his arrears from the inferior holder "within the revenue year or within the year of tenancy." This period is very often too short, and more especially in a year of scarcity when the ryot may not be able to pay up the kandayam within 12 months of a poor harvest. In his own interests it may be necessary to allow a longer time for the recovery by the Inamdar of the arrears due to him. It is considered that a period of two years is sufficient, though if the Select Committee insist upon it, the Government will be prepared to accede to a term of three years.

D. O. No. 2582

THE MYSORE RESIDENCY,

Bangalore, 15th July 1911.

My dear Dewan Sahib,

I am desired to acknowledge the receipt of your D.O. letter No. 2581, dated the 13th July, 1911, forwarding a Bill to amend the Mysore Land Revenue Code, 1888, and, in reply, to state that the Resident sees no objection to the Bill being laid before the Legislative Council.

Yours sincerely,

T. Ananda Rao Esqr., C.I.E.,
Dewan of Mysore.

Legis 6-11
Serial 6

To

The I. A. Residency in Mysore
Pol No. 854 Bangalore
Dt. 9-4-12

Sir,

I am directed to forward herewith a bill further to amend the Mysore Land Revenue Code and to state as follows:—

2. In the year 1906 a majority of the Judges of the Chief Court decided that the rent or revenue payable by an inferior holder (whether a Khadini tenant or not) to a superior holder in respect of land in an Inam village could not be enforced as a charge on the holding in respect of which the arrears accrued. As a result of this decision it has been represented that, in a large number of cases, the Inamdars are put to considerable difficulty in recovering from their tenants the arrears of land revenue due to them. ~~You are aware that~~ very often it may happen that the tenant possesses no property other than his holding from which the superior holder could hope to recover his dues. In such cases he looks only to the tenant's interest in the land as a means of recovery. But the tenant can successfully evade payment altogether if he alienates his interest in the land collusively to another person. It is not always possible for the Inamdar to prove the fact of such fraudulent alienation in all cases. And even if he could do so it will be only by incurring a disproportionately large amount of expenditure and by carrying on a protracted suit in a Civil Court. Besides this, Kadim tenants in Inam villages are invested with certain rights and privileges under the Land Revenue Code, by means of which they enjoy complete security of tenure and the Inamdar has an additional claim in these cases to be placed in an equally advantageous position as regards the recovery of his dues from the land. Ever since the decision above referred to was passed by the Chief Court, the Inamdars in the State have been bringing this hardship to the notice of the Government during the annual sessions of the Representative Assembly, and after giving their ~~most~~ careful consideration to the matter the Government have arrived at the conclusion that legislation should be undertaken to relieve the Inamdars from their present hardship. It is therefore proposed to enact that rent or land revenue payable by an inferior holder to his superior holder shall be a first charge on the land held by the tenant.

and that the period of limitation applicable to suits for the recovery of such dues was six years.

3. The Inamdars also desire that the charge to be created in their favour should be a paramount charge as under Section 67 of the Mysore Revenue Code, a power to declare forfeiture is one of the main benefits attached to the holding of an Inam by a superior holder. The

3 The clause as worded applies to Superior holders of alienated as well as unalienated lands. In the latter cases it will ~~should~~ be of use only where the tenant has a saleable interest in the holding.

Whether of alienated or inalienated lands

4. Clause 2 is intended to amend Section 97 of the Land Revenue Code. This section provides special facilities to superior holders to recover rent due to them by application to the Deputy Commissioner for the issue of coercive processes in the Revenue Department. But this procedure can be availed of only in respect of arrears of one year. The effect is that the superior holders are precluded from giving time to their tenants for payment even though they may be willing to do so if they wish to avoid the uncertainty of having to recover their dues through the Civil Courts. It may happen, as for example, in a year of scarcity, that it is to the interests of the tenant that the recovery of the arrears should be postponed. At the same time, it is only fair that, where the superior holder prefers to wait till the tenant is in a position to pay up his dues, he should not lose the easy remedies that would have been otherwise open to him. The Inamdars have been representing that in such cases they may be enabled to recover three years' dues through the agency of the Revenue Department. ~~In the Bill as prepared it is proposed to amend Section 97 by providing for the recovery by this mode of the arrears~~ of two years. ~~But it is for the Select Committee to consider whether the period should be further extended.~~ ~~The clause is so drafted as to enable~~

The clause is so drafted as to enable the Superior holder to recover in effect through the Deputy Commissioner three years' dues.

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95 *Clause 3.*—In consequence of the changes that will be effected in the law by clause 1, a period of limitation has to be fixed in regard to three different classes of cases, *viz.*

(1) Cases where a superior holder has to recover arrears of *revenue* from an inferior holder;

(2) Cases where the *rent* or *revenue* has to be enforced as a *charge* on the holding and

(3) Cases where rent has to be recovered from (the person of) the inferior holder.

9. In regard to case (1), the period applicable according to the Chief Court decision in the case of N. Subba Rao *v.* Veera Naika (XI Mysore Chief Court Reports, 118) is six years and the same period is adopted in the Bill. No alteration is therefore called for.

10. In regard to case (2), the period applicable would be 12 years under Article 132 of the Limitation Regulation if no special provision were made fixing a different period. For various reasons we deem it undesirable that such a long period should be allowed for the recovery of the superior holder's dues. We consider that a period of six years is quite sufficient. We therefore propose the addition of the words "or to enforce a charge for rent or revenue on a holding" to column 1 of the proposed Article 119A.

11. This change will constitute an exception to Article 132 of the first schedule of the Limitation Regulation and we therefore suggest that the words "except in cases provided for in Article 119 A" be added to the words in column 1 of that article.

12. Cases falling under class (3) referred to in para 8 above, *viz.*, simple suits for rent (in which the superior holder cannot have a charge on the holding, as the inferior holder will have no interest in it) will continue to be governed by Article 110 of the first schedule of the Limitation Regulation, which fixes a period of three years for such suits.

The Bill was considered and approved by the Legislative Council at the meeting held on the 21st February 1912. I am now to forward a copy of the Bill as approved by that body and to request that the sanction of the Government of India may be obtained for it being passed into law.

I have the

Copied 1/4/12

25 Mar 12

11/3/12

Secy to Govt

W(11) 7/3/12

A Bill further to amend the Mysore Land Revenue Code, Regulation No. IV of 1888.

~~*(As amended by the Select Committee.)*~~

~~[*N.B.*—Omissions are indicated by square brackets and additions by italics.]~~

Whereas it is expedient further to amend the Mysore Land Revenue Code, 1888; His Highness the Maharaja is pleased to enact as follows :—

Preamble.

Insertion of a new section before Section 97.

1. The following new section shall be inserted under the heading "Recovery of superior holders' dues" and before Section 97 as Section 96 A, *viz.*,—

"96 A. Any rent or land revenue ~~[(together with interest at rates fixed by any rules framed by Government under Section 154)]~~ payable by an inferior holder to a superior holder *together with interest at rates fixed by any rules framed by Government*, shall be a first charge on the holding or any part thereof, provided that nothing in this section shall affect any right of the Government or any right or encumbrance created by the inferior holder with the consent of the superior holder in writing registered or before the date of this Regulation coming into force."

Land revenue payable to a superior holder by an inferior holder to be a first charge on the holding.

Amendment of proviso to Section 97.

2. The words "within two years from the end of the revenue year or the year of tenancy" shall be substituted for the words "within the revenue year or within the year of tenancy" in the proviso to Section 97.

Amendment of Schedule I to the Mysore Limitation Regulation, 1911.

3. The following article shall be inserted after Article 119 of the first schedule to the Mysore Limitation Regulation, 1911, *viz.*,—

"119 A. By a superior holder to recover arrears of revenue from an inferior holder *or to enforce a charge for rent or revenue on a holding.*"	Six years	The end of the revenue year for which the amount became due.

4. The words "except in cases provided for in Article 119 *A" shall be inserted at the end of column* 1 *of Article* 132 *of the first schedule to the Mysore Limitation Regulation*, 1911.

Legis 6 of 1911-12 Serial 7

III

9-512

No. 2703

J 3016

FROM

P. B. WARBURTON, Esq., I. C. S.,

FIRST ASSISTANT TO THE RESIDENT IN MYSORE.

Pol no 1795 10-5-12

To

The Dewan of Mysore.

Dated Bangalore, 9th May 1912.

SIR,

I am directed to acknowledge the receipt of Mr. Balasundaram Iyer's letter No. 854 Pol., dated the 9th April 1912, forwarding for the orders of the Government of India a draft Bill which the Darbar propose to -- enact to amend the Mysore Land Revenue Code (Regulation No. IV of 1888).

2. In reply, I am to say that the Governor General in Council has been pleased to accord his consent to the draft Bill on the understanding that he retains over it the power and authority which vests in him by virtue of Article 19 of the Instrument of Transfer.

I have the honour to be,

Sir,

Your most obedient servant,

P B Warburton

First Assistant Resident.

R. O. 2.—R. P. B.—8-1911.—3,000.

3

G.R.S. 28.]

17

Legis File No. 6-1
Serial No. 8

Diary No. of letter replied to

Proceedings of the Government of His Highness the Maharaja of Mysore.

GENERAL AND REVENUE SECRETARIAT
( )

READ—

, the 19

Date of issue 21-12

Signed by Mr P. Srinivasaraya

ORDER THEREON—No. 329 / Legis 6-11-8. Encl.

That the accompanying Bill to further amend the Mysore Land Revenue Code, Regulation IV of 1888, which required the assent of His Highness the Maharaja

over

SUBJECT.

B—10,000—19-4-10

On the 28th day of June 1912
be published for general information
as Regulation No V of 1912.

Secretariat

To
The Principal Mysore Gazette, with a
Copy of the Regn for publication in
Part IV of the Gazette, in English &
Canarese. & for supplying this office
with 250 spare Copies in English &
100 Copies in Canarese and the Central
Post Book Depot, with 100 Copies
each in English & Canarese. Canarese
translation will follow.
C. Narasimhaiyangar sent for Canarese
translation of the Regulation
before publication

Copy to the Translation section
for necessary
action

2/7/12

REGULATION No. V OF 1912.

(Received the assent of His Highness the Maharaja on the 25th day of June 1912.)

A Regulation further to amend the Mysore Land Revenue Code, Regulation No. IV of 1888.

Preamble.

Whereas it is expedient further to amend the Mysore Land Revenue Code, 1888; His Highness the Maharaja is pleased to enact as follows:—

Insertion of a new section before Section 97.

1. The following new section shall be inserted under the heading "Recovery of superior holders dues" and before Section 97 as Section 96 A, *viz.*—

Land revenue payable to superior holder by an inferior holder to be a first charge on the holding.

"96 A. Any rent or land revenue payable by an inferior holder to a superior holder together with interest at rates fixed by any rules framed by Government, shall be a first charge on the holding or any part thereof, provided that nothing in this section shall affect any right of the Government or any right or encumbrance created by the inferior holder with the consent of the superior holder in writing registered or before the date of this Regulation coming into force.'

Amendment of proviso to Section 97.

2. The words "within two years from the end of the revenue year or the year of tenancy" shall be substituted for the words "within the revenue year or within the year of tenancy" in the proviso to Section 97.

Amendment of Schedule I to the Mysore Limitation Regulation, 1911.

3. The following article shall be inserted after Article 119 of the first schedule to the Mysore Limitation Regulation, 1911, *viz.*—

"119 A. By a superior holder to recover arrears of revenue from an inferior holder or to enforce a charge for rent or revenue on a holding."	Six years	The end of the revenue year for which the amount became due.

4. The words "except in cases provided for in Article 119 A" shall be inserted at the end of column 1 of Article 132 of the first schedule to the Mysore Limitation Regulation, 1911.

T. ANANDA ROW,
Dewan.

G.R.S. 26]

Legis File No. 6-1
Serial No. 9

1917

Diary No. of letter replied to

Pol No. 52/Encl 10 Cpys

General and Revenue Secretariat
( )
, *the* 19 .

To
The F. A. Resident in
Mysore, Bangalore

Date of issue 17. 7. 12.

Signed by Sir K. R. Srinivasaraya

sir

I am directed to forward herewith a copy of Regulation II of 1912, a Regulation further to amend the Land Revenue code, 1888, with 9 spare copies and to request that a copy may, as usual, be sent to His Highness the Nizam's Govt

I have &c.

for Secretary to Govt

SUBJECT.

SW(11)

5/7/17 CWW